

# **Exhibit 11**

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

\* \* \* \* \*

AUTHENTICOM, INC.

Plaintiff,

-vs-

Case No. 17-CV-318-JDP

CDK GLOBAL, INC., LLC  
and THE REYNOLDS and  
REYNOLDS COMPANY,

Madison, Wisconsin  
June 26, 2017  
1:50 p.m.

Defendants.

\* \* \* \* \*

STENOGRAPHIC TRANSCRIPT-FIRST DAY OF EVIDENTIARY HEARING

**AFTERNOON SESSION**

HELD BEFORE THE HONORABLE JAMES D. PETERSON,

APPEARANCES:

For the Plaintiff:

Godfrey & Kahn S.C.  
BY: JENNIFER GREGOR  
One East Main Street, Ste. 500  
Madison, Wisconsin 53703

Kellogg, Hansen, Todd, Figel & Frederick, PLLC  
BY: MICHAEL NEMELKA  
AARON PANNER  
DAVID SCHWARZ  
DEREK HO  
JOSHUA HAFENBRACK  
KEVIN MILLER  
JOHANNA ZHANG  
1615 M Street, NW, Ste. 400  
Washington, DC 20036

Also present: Stephen Cottrell - Authenticom president  
Steve Robb - IT technician

Lynette Swenson RMR, CRR, CRC  
U.S. District Court Federal Reporter  
120 North Henry Street, Rm. 520  
Madison, Wisconsin 53703

1 a credential to a machine that runs a script that then  
2 pulls back data is something that in cybersecurity  
3 practice is very, very poorly looked upon because it's  
4 not a human. Cybersecurity mechanisms, even in the  
5 technology, intrusion detection, when you're doing kind  
6 of like the holistic assessment of how a human would  
7 behave, they're designed to look at humans. When  
8 machines suddenly start doing something, you set off  
9 those alarms, an intrusion detection system, and they  
10 shut it down. So that means when you shut it down, the  
11 people who shut it down incur a cost to their systems too  
12 because they have to figure out what wrong. They have to  
13 do a lot of forensics on that. It's another layered-on  
14 cost.

15 Q You've heard earlier today one of the claims made by  
16 Authenticom is that they only pull the data that dealers  
17 specify. Based on the research you've done, is that  
18 accurate in your opinion?

19 A So it was very interesting when Mr. Swire,  
20 Dr. Swire, Professor Swire was up here, the exchange you  
21 had talking about the information that they pull and what  
22 you know they pull and what they don't. And here's what  
23 I'd like to try to explain. I don't know this for  
24 certain, but normally when you use scraping software and  
25 you go in and you use credentials, scraping software gets

1 everything on that page. The way I understand the  
2 scripts, which is the small software program that  
3 Authenticom is using, and actually Mr. Cottrell even  
4 mentioned this, he said they're English script. That  
5 means it scrapes the page. It pulls all that back. It  
6 doesn't read it. It's not AI. It doesn't read it and  
7 only pick what's there. It scrapes it. It pulls  
8 everything back.

9 It puts in a request to go to the next page. It  
10 scrapes it. It pulls all that data back. It puts in a  
11 request to go to the next page. It scrapes it. By the  
12 time, using the airline analogy, you get to your ticket,  
13 it's already scraped five pages worth of data that may  
14 not have anything to do with what the actual query was.

15 Now, I know that they do try to limit, but my  
16 impression, in particular when it's not run through the  
17 Reynolds reporting software, Dynamic Reporting, is that  
18 there's a very high likelihood, I don't know this for  
19 certain, there's a very high likelihood that in this  
20 phase between when they're pulling back the data and it  
21 gets to DealerVault, they're pulling back a lot of stuff  
22 that is not just exactly what is in there.

23 Now, when we talk about transparency, DealerVault  
24 itself, I think, is good. That's an impressive piece of  
25 technology. It does give the dealer transparency on data

1 that's there and where it's going. The point that I'm  
2 most concerned about from a transparency perspective is  
3 what happens from the time they scrape, they pull all of  
4 that back, and it goes into DealerVault because no one  
5 has any visibility on that except for the people within  
6 Authenticom. The DMS providers don't. The dealers  
7 don't. It's in that pullback and you don't know what's  
8 there.

9 Q And why is this a problem from a cybersecurity  
10 perspective?

11 A Well, in the earlier conversation about data  
12 minimization, that was the principle that I was talking  
13 about. So you want to try to take only the specific  
14 things that you need. When you do, this is what I call  
15 brute force, it's a term of art. It's not trying to be  
16 derogatory. A brute force-type approach like that, it  
17 means you're taking a lot of stuff and it takes a lot of  
18 confrontational power to do that. That's a brute force  
19 pull. You get a lot of stuff that you don't need and you  
20 don't want, which is why in other sectors where there are  
21 data-like integrators, you don't use screen scraping;  
22 right? Because it's too inexact. You use a push-type  
23 mechanism because then you're sure the data that is going  
24 to the recipient, the third-party vendor, is the data  
25 that it should be.

1           Additionally, people don't have to break into your  
2           system or have access to your system to do that. You  
3           push it out. They get it. That can be done in a very  
4           dynamic or realtime-like way.

5           THE COURT: On the kind of overscraping I'll  
6           call it --

7           THE WITNESS: Yes, sir.

8           THE COURT: -- I get the concept. But do you  
9           know specifically whether there's any meaningful or  
10          particularly high value information that's in that extra  
11          scrapings that -- not just the stuff that shows up in  
12          DealerVault, but it's the extra stuff -- I mean like in  
13          my vision using the airline analogy, now we've got a lot  
14          of little menu tabs, the Delta logo, and a bunch of other  
15          junk that is really not high-value stuff. It's extra,  
16          but it's not very value.

17          THE WITNESS: Right. Again, I don't know for  
18          certain, but, you know, depending on how they pull up the  
19          report, there could be stuff that's in there that  
20          shouldn't be. Whether it's a social security number, I  
21          don't know. I doubt that they want that. I don't think  
22          they do. But remember when you talk about social  
23          security numbers being encrypted, from what I understand  
24          from the Reynolds and CDK systems, they are encrypted,  
25          but you bring it up on a screen. If it's brought up on a

ERIC ROSENBACH - DIRECT

1 hotline. We do all kinds of seminars. We're constantly  
2 hearing from our dealers about the issues that are of  
3 concern to them.

4 Q Do you talk with dealers or associations from other  
5 states?

6 A We do. There's an association of associations of  
7 car dealers and we meet frequently, share ideas on  
8 legislative issues, compliance issues, et cetera.

9 Q In your experience, can you explain why dealers  
10 would want to work with an integrator rather than pulling  
11 the data from a DMS system themselves?

12 A Dealers are in the business of selling and servicing  
13 vehicles and they hire a whole range of experts to  
14 perform functions for them. Pulling data isn't something  
15 that they're focused on, so they'd likely hire an expert  
16 to assist them.

17 Q Are you familiar with Authenticom's DealerVault  
18 product?

19 A I am.

20 Q Outside of the testimony and demonstration that  
21 you've seen today.

22 A Yes.

23 Q How so?

24 A We developed a relationship with DealerVault shortly  
25 after they came on the market. We looked at their

1 product. We beta tested it. We talked to a number of  
2 dealers. And they thought it would be a fabulous product  
3 to give them control over who accesses dealer  
4 information. It's a principle concern of my dealer  
5 members. They made it very clear to us they wanted tools  
6 that would give them control over who could or who could  
7 not get access to the information in their databases.

8 Q You mentioned a relationship with Authenticom or  
9 DealerVault just now. What is that relationship? Can  
10 you explain?

11 A So we have a series of vendors that we have  
12 relationships with where we license the use of our name  
13 and logo in exchange for royalty payments.

14 Q And you have an opinion on the quality of the  
15 DealerVault products?

16 A Yes. I think it's the best product in its market  
17 space. There's no user interface that's easier to use.  
18 The fact that it limits by field, et cetera, as we saw in  
19 the demonstration this morning, all the feedback that  
20 we've heard from our dealer members it's a quality  
21 product.

22 Q You lived in Sacramento, but you traveled to Madison  
23 to testify today. Why is that?

24 A Again, we heard from a number of dealers that they  
25 care about the ability to use a product like a



1 DealerVault and we've heard a lot of angst amongst our  
2 dealer body about the fact that DealerVault isn't able to  
3 provide the quality of service that they had been  
4 providing previously. And as I've learned through  
5 reading various pleadings in this case, apparently that's  
6 because of changes in business practices of CDK and  
7 Reynolds.

8 Q We heard a lot of testimony today about security.  
9 In your view as the president of the largest state  
10 association of car dealers, how do dealers approach data  
11 security?

12 A It's a critical issue. I saw the NADA memo that was  
13 referenced earlier. We repeatedly talk to our dealers  
14 about data security. We've done seminars on the topic.  
15 California law is among the strictly in data security and  
16 data breaches in the country on top of what federal law  
17 already requires. So our dealers care deeply about it.  
18 They read the same news accounts we all do and they want  
19 to make sure that they're doing what they can to protect  
20 themselves and that's why we thought a relationship with  
21 DealerVault made sense.

22 Q Is it fair to say DealerVault is consistent with the  
23 2013 NADA guidelines?

24 A Yeah. The purpose of those guidelines, which I've  
25 read, are dealers take control of your data and do it in

1 a way that you feel comfortable with. Here's a series of  
2 questions you should ask any vendor with whom you do  
3 business. And get the best answer you can get to those  
4 questions. And we felt that DealerVault was a vendor  
5 that would provide great assistance in that regard.

6 Q Have dealers ever complained to your association  
7 about their systems being degraded by integrators like  
8 Authenticom?

9 A No.

10 Q Have dealers ever complained to your association  
11 with data security being negatively affected by  
12 integrators like Authenticom?

13 A No.

14 MS. GREGOR: No further questions. (5:47 p.m.)

15 THE COURT: Cross-examination?

16 MS. GULLEY: Yes, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. GULLEY:

19 Q Good afternoon, Mr. Maas. How are you?

20 A Doing well.

21 Q Good. So the California New Car Dealers Association  
22 has a license agreement with Authenticom; correct?

23 A We do.

24 Q With DealerVault. I'm sorry.

25 A Yeah.

BRIAN MAAS - CROSS

1 A Yes.

2 Q Why didn't you?

3 A Because of the expense.

4 Q If Authenticom goes out of business, what will  
5 happen to Open Recalls?

6 A We're going to go out of business.

7 Q Why is that?

8 A Because we can't afford it.

9 Q I'd like to switch very briefly and discuss -- you  
10 mentioned a car dealership, Ghaben Auto Group; is that  
11 correct?

12 A Correct.

13 Q And you're the director of operations there?

14 A Yes.

15 Q What is the Ghaben Auto Group?

16 A We have five stores throughout the Chicagoland area.

17 Q And who is the Ghaben Auto Group's DMS provider?

18 A CDK.

19 Q Since when?

20 THE COURT: Can you tell us the name of that?  
21 What's the name of that?

22 THE WITNESS: It's Ghaben Auto Group.

23 THE COURT: Can you spell it for us?

24 THE WITNESS: G-h-a-b-e-n.

25 THE COURT: G-h-a-b-e-n.

MICHAEL KORP - DIRECT

1 THE WITNESS: Correct.

2 THE COURT: Thank you.

3 BY MR. HAFENBRACK:

4 Q And you've been with CDK since 2004?

5 A Correct.

6 Q And does the Ghaben Auto Group use software vendors  
7 like we've been discussing here today to help you sell  
8 and service cars?

9 A Yes.

10 Q About how many?

11 A About a dozen.

12 Q And can you please describe maybe an example or two  
13 of the kind of functions they perform?

14 A Accounting, telling us what cars to buy, how to  
15 price them, advertising our cars like on CARFAX that we  
16 talked about earlier today, key performance indicator  
17 software to make sure that we're buying well.

18 Q Do some of your vendors use Authenticom to pull your  
19 data?

20 A Yes.

21 Q When they do that, do you authorize Authenticom to  
22 pull your data?

23 A Yes.

24 Q When Authenticom pulls your data, do they act as  
25 your agent?

MICHAEL KORP - DIRECT

1 A Yes.

2 Q As a dealer, do you ever put social security  
3 information on your DMS?

4 A No.

5 Q As a dealer, do you ever put credit card information  
6 on your DMS?

7 A No.

8 Q As a dealer, do you ever driver's license  
9 information on your DMS?

10 A No.

11 Q Has CDK blocked your ability to provide data to  
12 Authenticom?

13 A Yes.

14 Q When did that start?

15 A Same time in -- same time as for Open Recalls in  
16 August of 2016.

17 Q Does that continue today?

18 A Yes.

19 Q Has it hurt your business?

20 A Yes.

21 Q How so?

22 A So some of the vendors that were providing data to  
23 us chose to stop providing us with those software  
24 programs because they were not going to go into the  
25 integration programs or the data integration programs.

MICHAEL KORP - DIRECT

1 And then the ones that went and moved over that had to  
2 recode or were taking data that was coming in a different  
3 format as -- we had cars not on the internet, we had cars  
4 not priced right. We had just a loss of being able to  
5 that make a decision as to what cars to buy, what to pay  
6 for them, what to sell them for, when to move them.

7 Q In today's world, if the car is not on the internet  
8 you can't sell it; is that right?

9 A That's correct. Right.

10 Q Do you have any vendors that received data  
11 integration directly from CDK?

12 A Yes.

13 Q Are you aware of whether those vendors passed  
14 through the data fees they paid to CDK to your  
15 dealership?

16 A I can tell you one specific instance.

17 Q Please do.

18 A So at NADA in New Orleans this year I signed a  
19 contract with Cox Automotive. And on their pricing  
20 sheet, although it doesn't use the words CDK and Reynolds  
21 in writing, they ask you are you a CDK or Reynolds dealer  
22 and then they check the box if you are and then you pay a  
23 \$600 data integration fee a month.

24 Q So 600 more if you're with CDK and Reynolds as  
25 opposed to any other DMS.

MICHAEL KORP - DIRECT

1  
2 I, LYNETTE SWENSON, Certified Realtime and  
3 Merit Reporter in and for the State of Wisconsin, certify  
4 that the foregoing is a true and accurate record of the  
5 proceedings held on the 26th day of June 2017 before the  
6 Honorable James D. Peterson, District Judge for the  
7 Western District of Wisconsin, in my presence and reduced  
8 to writing in accordance with my stenographic notes made  
9 at said time and place.

10 Dated this 30th day of June 2017.

11  
12  
13 /s/\_\_\_\_\_

14 Lynette Swenson, RMR, CRR, CRC  
15 Federal Court Reporter  
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17

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